

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANDY ORTIZ,

Plaintiff,

v.

BLACKSHEER, ET AL.,

Defendants.

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**Civil Action
No. 3101**

Jury Trial Demanded

JOINT PROPOSED DISCOVERY PLAN

The parties in this matter conferred under Fed. R. Civ. P. 26(f) on March 2, 2023.

Undersigned counsel for Defendants conferred with Plaintiff by phone regarding the content of the present report and the attached Joint Status Report Pursuant to Rule 26(f) form, but Plaintiff was not able to review the final version of the reports. The parties in this matter jointly propose the following discovery plan:

I. Rule 26(a) Disclosures

Defendants completed the self-executing disclosures on February 27, 2023, as required by Rule 26(a) and in compliance with the February 13, 2023 Court Order. Plaintiff is in receipt of Defendants' initial disclosures. Plaintiff represented he intends to complete the self-executing disclosures on March 2, 2023.

II. Discovery Subjects

(A) Counsel agrees that unless otherwise stipulated by the parties or ordered by the court, discovery must proceed in accordance with the Federal Rules of Civil Procedure, including the amendments to the Federal Rules regarding electronic discovery effective December 1, 2006.

(B) Counsel agrees that the subjects for discovery include:

- Facts relevant to plaintiff's claims, i.e., that Defendants failed to protect him when on or around either October 6 or November 6, 2020, Defendant Blacksheer allegedly opened Plaintiff's cell to have other inmates fight Plaintiff and Defendant Jones told inmates his "information" and also told inmates to fight him; and again when between February 22, 2021 and February 23, 2021, the Defendants allegedly induced other inmates to punch Plaintiff in the prison yard;
- Facts relevant to plaintiff's claims, i.e., that on or around either October 6 or November 6, 2020, and between February 22, 2021 and February 23, 2021, the Defendants retaliated against Plaintiff and that such retaliation was allegedly a result of complaints Plaintiff made to the Pennsylvania Institutional Law Project ("PILP");
- Facts relevant to plaintiff's claims regarding which Plaintiff refers to his complaint for additional information;
- Facts relevant to plaintiff's damages; and
- Facts relevant to any affirmative defenses pled by Defendants.

(C) Counsel anticipate that the following depositions will be necessary:

- Plaintiff; and
- Defendants CO Blacksheer and CO Jones.

III. Pretrial Timetable

(A) The parties request a close of discovery date of June 1, 2023.

(B) The parties request that the Court's default scheduling order be modified to allow for dispositive motions as follows:

- Dispositive motions: July 3, 2023.

IV. Alternative Dispute Resolution

At this time, counsel for Defendants has no authority to settle the case and Defendants are not prepared to make an offer absent further developments in discovery. Defendants do not believe a Settlement Conference would be helpful absent further developments during discovery. Plaintiff believes a Settlement Conference would be helpful and requests it take place after discovery.

V. Other Pretrial Issues

(A) Plaintiff anticipates subpoenaing third parties Rayshawn Corbitt and Jeremy Alvarez.

Date: March 2, 2023

/s/ Jonah Santiago-Pagán
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Counsel for Defendants

Joint Status Report Pursuant To Rule 26(f)

Caption: Ortiz v. Carney, et al. Civil Action No: 2:21-cv-03101-GJP

Basis of Jurisdiction: Federal Question (§ 1983 Claim)

Jury Trial: X Non-Jury Trial: _____ Arbitration: _____

Plaintiff's counsel participating in Rule 16 Conference: **Andy Ortiz, Pro se Plaintiff**
Defendants counsel participating in the Rule 16 Conference: **Jonah Santiago-Pagán, Esq.**
Do counsel have full authority to settle at Rule 16 Conference: **No**

If not, client with such authority who will attend conference:

At this time, there is no authority to settle the case and Defendants are not prepared to make an offer absent further developments during discovery.

When did the parties hold the Rule 26 Conference? **March 2, 2023**

When did the parties comply with the Rule 26(a)'s duty of self-executing disclosure? **Defendants complied on February 27, 2023 and Plaintiff is in receipt of the same. Plaintiff has not complied and represented he intends to comply today March 2, 2023.**

Does either side expect to file a case-dispositive motion? Yes (yes/no)

If yes, under what Rule **Rule 56 – Summary Judgment**
If yes, specify the issue **Failure to adduce evidence of failure to protect.**
Proposed deadline for filing dispositive motions: **July 3, 2023**
Does either side anticipate the use of experts? **Not at this time.**

If yes, what is the proposed deadline for expert discovery? **N/A**

Approximate date case should be trial-ready: **August 1, 2023**

Time for Plaintiff's case: _____ Time for Defendant's case: 1 day

Is a settlement conference likely to be helpful? **Defendants – No. Plaintiff – Yes.** If so, when:

Early _____ (yes/no) After Discovery Yes (yes/no)

Do the parties wish to proceed before a Magistrate Judge for final disposition? **No.**

Plan for Discovery:

1. The parties anticipate that discovery should be completed within 90 days.
2. What is the minimum amount of time necessary to complete discovery prior to an ADR session, should one be ordered or agreed to? **90 days**
3. Have the parties discussed issues relating to claims of privilege or of protection as trial-preparation material, as required by Rule 26(f)(3)(D)? **Yes. Information on other inmates may be privileged or protected.**
4. Identify any other discovery issues which should be addressed at the Rule 16 Conference, including limitations on discovery, protective Orders needed, or other elements which should be included in a particularized discovery plan. **Not at this time.**

5. If you contend the discovery period to exceed 90 days, please state the reason:

Not applicable.

6. Do the parties anticipate the need to subpoena any third parties? **Defendants – No.**
Plaintiff – Yes. Plaintiff intends to subpoena Rayshawn Corbitt and Jeremy Alvarez.

If yes, to the extent any authorizations or releases are required to be signed, counsel should exchange them in advance of the Rule 16 Conference.

Respectfully submitted,

Date: March 2, 2023

/s/ Jonah Santiago-Pagán
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CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing Joint Proposed Discovery Plan Pursuant to Federal Rule of Civil Procedure 26(f) has been mailed via first class mail to the following address:

Smart Communications/PA DOC
Andy Ortiz, QN-9897
SCI Somerset
1590 Walters Mill Road
Somerset, PA 15510

Date: March 2, 2023

/s/ Jonah Santiago-Pagán
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